

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE MARCH 28, 2006

**SENATE BILL**

**No. 1377**

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**Introduced by Senator Soto**

February 21, 2006

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An act to add Section 39600.5 to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1377, as amended, Soto. State Air Resources Board: memorandum of understanding.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to do those acts as may be necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by law.

This bill would ~~permit~~ *authorize* the state board to enter into ~~a voluntary~~ *an* agreement, including a memorandum of understanding, with a public or private entity, as provided, and would require the state board to perform specified functions in entering into an agreement. The bill would require the state board to submit annual reports on all existing agreements to the Legislature, as provided. *The bill would provide that its provisions apply retroactively to any memorandum of understanding or agreement entered into by the executive officer of the state board on or after June 1, 2005, and would state legislative*

*findings and declarations and legislative intent regarding its application to a designated document.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) The Legislature finds and declares that the  
2     State Air Resources Board maintains that the document entitled  
3     “ARB/Railroad Statewide Agreement: Particulate Emissions  
4     Reduction Program at California Rail Yards: June 2005,”  
5     entered into by the executive officer of the state board, the BNSF  
6     Railway Company, and the Union Pacific Railroad Company is  
7     not a binding contract because the document has not yet been  
8     ratified by the state board at a public meeting.

9     (b) This act is intended to apply to the document described in  
10    subdivision (a).

11    ~~SECTION 1.~~

12    SEC. 2. Section 39600.5 is added to the Health and Safety  
13    Code, to read:

14    39600.5. (a) The state board may enter into ~~a voluntary~~ an  
15    agreement, including a memorandum of understanding with a  
16    public or private entity, necessary for the proper execution of the  
17    powers and duties granted to, and imposed upon, the state board  
18    by this division and by any other provision of law.

19    (b) Any agreement entered into which serves to reduce  
20    emissions shall be no longer than two years in duration, and shall  
21    address unregulated or under regulated sources, and shall  
22    continue only until appropriate regulation or legislation is  
23    enacted to address those unregulated or under regulated sources.

24    (c) Any agreement pursuant to this section shall provide  
25    opportunities for public participation, consistent with normal  
26    rulemaking processes by the state board.

27    (d) The state board shall ratify all ~~voluntary~~ agreements,  
28    including, but not limited to, those entered into by the ~~Executive~~  
29    ~~Officer~~ executive officer of the state board to reduce emissions.

30    (e) Prior to ratifying an agreement, the state board shall  
31    perform all of the following functions:

32    (1) Consult with, and consider the suggestions of, the public  
33    and all interested parties, including, but not limited to, the

1 Legislature, the California Air Pollution Control Officers  
2 Association, and all entities affected by the agreement.

3 (2) Conduct at least three public workshops, located in  
4 affected areas of the state, to solicit comments on the proposed  
5 agreement.

6 (3) Prepare a written report relating to the agreement that  
7 contains at least all of the following:

8 (A) A description of the public participation process, including  
9 public opinions and recommendations relating to the agreement.

10 (B) A description of the emissions reductions achieved by the  
11 agreement. Targeted emissions reductions shall be from an  
12 established baseline, and shall be permanent.

13 (C) An assessment of the local cumulative impacts and  
14 environmental justice implications.

15 (D) An analysis of the methods of compliance and  
16 enforceability of the agreement.

17 (E) An analysis of the agreement pursuant to the California  
18 Environmental Quality Act, including an analysis of the  
19 significant environmental impacts, alternatives, and mitigation  
20 measures that would reduce these impacts. *For agreements*  
21 *entered into with private parties, any costs incurred in the*  
22 *preparation of this analysis shall be borne by the private parties.*

23 (4) Evaluate and incorporate the best available control  
24 technologies and new emerging alternative technologies into the  
25 agreement, to the extent feasible.

26 (5) Initiate the development of appropriate legislation.

27 (6) The chairperson of the state board shall consult with the  
28 Legislature. At the discretion of the Legislature or any committee  
29 thereof, the chairperson of the state board or his or her designated  
30 representatives shall testify before the Legislature or committee  
31 to explain the rationale for the agreement, including why current  
32 authority does not support a regulatory approach.

33 (f) ~~Voluntary agreements~~ *Agreements* that the state board  
34 ratifies shall be reevaluated every year, and the state board shall  
35 submit annual reports on all existing agreements to the  
36 Legislature that include but not limited to, all of the following:

37 (1) An evaluation of the effectiveness of every agreement,  
38 annual reevaluations of every agreement, as applicable, and an  
39 analysis of compliance, participation rates, and enforceability of  
40 each agreement.

1 (2) The status of any memorandum of understanding.

2 (3) An evaluation of the emissions reductions achieved  
3 through the agreement.

4 (4) An evaluation of the best available control technologies  
5 and new emerging alternative technologies for the applicable  
6 pollution sources categories incorporated by the agreement.

7 (g) Failure to comply with this section shall invalidate any  
8 agreement ~~entered into pursuant to this section~~ *not otherwise*  
9 *expressly authorized by law.*

10 (h) The provisions of this section shall apply to any  
11 memorandum of understanding *or agreement* entered into by the  
12 ~~Executive Officer after January 1, 2007~~ *executive officer on or*  
13 *after June 1, 2005.*

14 *SEC. 3. The provisions of this act are severable. If any*  
15 *provision of this act or its application is held invalid, that*  
16 *invalidity shall not affect other provisions or applications that*  
17 *can be given effect without the invalid provision or application.*